

## **REMARKS/ARGUMENTS**

This communication is in response to the Final Office Action dated November 20, 2009. Claims 7 and 12 were previously canceled, without prejudice. Claims 4, 10, 14 and 15 have been amended. No new matter has been added. Claims 1-6, 8-11 and 13-16 remain pending in this application with claims 1, 9 and 13 being the only independent claims. Reconsideration in view of the amendments to the claims and arguments presented herein is requested.

### **Entry of Amendment**

The amendments to the claims are non-substantive in that they merely overcome the outstanding claim objections. Accordingly, applicants assert that the amendments to the claims do not necessitate further search and/or consideration. Entry of the after final amendment is therefore requested.

### **Claim Objections**

Claims 4, 10, 14 and 15 were objected to on informal grounds. Applicants have amended claims 4, 10, 14 and 15 to overcome the outstanding objections. No new matter has been added. Withdraw of the objections in view of the amendments to the claims is therefore requested.

### **Form of Dependent Claim Numbering**

The Examiner points out that pursuant to MPEP §608.01(n) a claim which depends from a *dependent* claim should not be separated therefrom by any claim which does not also depend from said dependent claim. Therefore, the Examiner proposes canceling claim 9 and rewriting as a new claim. Applicants bring to the Examiner's attention that the same MPEP section further provides "During prosecution, the order of claims may change and be in conflict with the requirement that dependent claims refer to a preceding claim. Accordingly, the numbering of

dependent claims and the numbers of preceding claims referred to in dependent claims should be carefully checked when claims are renumbered upon allowance.”

Accordingly, upon allowance of the claims the Examiner is hereby authorized to renumber the claims to conform with this dependent claim format rule.

**Claim Rejections Under 35 U.S.C. §112, Second Paragraph**

Claims 10 and 11 are rejected under 35 U.S.C. §112, second paragraph, in that in claim 10 the phrase “analogue to” renders the claim indefinite. Claim 10 has been amended to delete the phrase “analogue to the sending of a Point-to-Point – Short Message Service (PtP-SMS) via the respective SACCH.” Withdraw of the rejection under 35 U.S.C. §112, second paragraph, in view of the amendment to claim 10 is therefore requested.

**Prior Art Claim Rejections**

Claims 1, 3, 4, 5, 8 and 9 are rejected under 35 U.S.C. §102(b) as anticipated by US Patent No. 6,138,011 (Sanders, III et al.) and 3GPP TS 43.068 “Voice Group Call Service (VGCS); Stage 2.”

Claims 2 and 6 are rejected under 35 U.S.C. §103(a) as obvious over Sanders, III et al. in view of 3GPP TS 43.068 “Voice Group Call Service (VGCS); Stage 2” and US Patent Publication No. 2003/0109269 (Laumen et al.).

Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as obvious over Sanders, III et al. in view of 3GPP TS 43.068 “Voice Group Call Service (VGCS); Stage 2” and US Patent No. 6,085,100 (Tarnanen).

Claims 13-16 are rejected under 35 U.S.C. §103(a) as obvious over Sanders, III et al. in view of 3GPP TS 43.068 “Voice Group Call Service (VGCS); Stage 2.”

Applicants respectfully traverse the outstanding prior art rejections for at least the reasons discussed below.

### **Independent Claims 1 & 13**

Claim 1 specifies “wherein the Voice Group Call reference represents a concatenated sequence of a group identification (ID) and a group call area identification (ID).” (emphasis added)

In rejecting the claimed invention the Examiner asserts that the claimed “Voice Group Call reference” is taught by Sanders, III et al. (Col. 7, ll. 10-27) which reads “Upon receiving the call request and the short message, the MSC 118 provides the call request and the short message to the SMS processor 120 in accordance with known techniques. The SMS processor 120 forwards the call request and the short message to the dispatch controller 103, which, in turn, establishes communication links between itself and the target devices 107-110 of the originating communication device’s talk group as described above. Once the links are established, the dispatch controller 103 transmits the short message to the target devices 107-110 via the SMS processor 120 and the established lines 126-127, 129-130.” This passage does not disclose the information used to establish the links. However, an earlier paragraph of Sanders, III et al. reads “Upon receiving the call request, the dispatch controller retrieves dispatch-related information from a database coupled to the dispatch controller based on either the originating device’s ID or the target address. The dispatch-related information includes a talk group affiliation for the originating communication device. Based on the retrieved dispatch-related information, the dispatch controller identifies a group of target communication devices for the dispatch call.” (Col. 2, ll. 55-63)(emphasis added) Nothing in Sanders, III et al. either discloses or suggest that the “dispatch-related information” includes “a concatenated sequence of group identification and group call area identification.”

The Examiner now acknowledges that “Sanders teaches in col. 2, lines 55-63 dispatch related information for the talk group including a talk group affiliation for identifying target devices for establishing the communications links necessary for transmission of the short message, but Sanders fails to explicitly state wherein the SM will be addressed by an associated Voice Group Call reference representing a concatenated sequence of group identification (ID)

and a group call area identification. However attention is directed to 3GPP TS 43.068 ‘Voice Group Call Service (VGCS); Stage 2’ which teaches an associated Voice Group Call reference representing a concatenated sequence of group identification (ID) and a group call area identification (see 3GPP TS 43.068 ‘Voice Group Call Service (VGCS); Stage 2’ Section 9.1 which explains identifies for group calls such as a group call reference composed of a group ID and a group call area ID).” {November 20, 2009 Final Office Action: p. 4, l. 26 through p. 5, l. 9}(emphasis added)

Applicant respectfully disagrees. First, the 3GPP TS 43.068 reference is only directed to VGCS, not SM. Applicant submits that absent the specification of the present invention no motivation or reasoning exists as to why one of ordinary skill in the art would be able to interchange “talk group affiliation” used to transmit SM with a concatenated sequence of group ID and group call area ID when communicating SM in VGCS. To the contrary, Applicants assert that Sanders, III et al. teaches away from such modification. MPEP §2143.01(V) provides “If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” (citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). Sanders, III et al. expressly discloses “Therefore, a need exists for an apparatus and method for providing dispatch or group call service to an existing public telephone network that permit a full duplex group call to be commenced effortlessly by the user of a subscriber and that do not require modification of the existing telephone network.” (Col. 2, ll. 8-13) and “Generally, the present invention encompasses a method and apparatus for providing dispatch service to an existing telephone network.” (Col. 2, ll. 43-35) Thus, modification of Sanders, III et al. so that the concatenated sequence of group identification and group call area identification which are parameters associated with the existing telephone system is used instead of the dispatch-related information (including the talk group affiliation) associated with the dispatch service would mean that transmission of the SM is via the existing telephone network, whereas the express intended purpose of Sanders, III et al. is to employ a separate dispatch routing system not the existing telephone network to communicate the SM.

Independent apparatus claim 13 is similar to its claim 1 method counterpart and thus patentable over the prior art of record for at least the same reasons.

### **Dependent Claims 8 & 16**

Claim 8 states “if the current talker is sending the SM and during the sending the talker intends to end his speaking, a Mobile Station (MS) will hold uplink until the SM is sent completely to the network.” (emphasis added)

In rejecting claim 8 the Examiner maintains that this limitation is taught by sections 4.2.2.1, 11.4 and 11.5 of the publication entitled “3GPP TS 43.068 ‘Voice Group Call Service (VGCS); Stage 2.’” In particular, the Examiner states that these sections of the publication disclose “a voice group call with an uplink that that is only accessible by one user at any one time and it is released only upon reception of an uplink release message at the anchor mobile switching center from a base station controller. Thus, the current talker has exclusive access to the uplink channel while communicating to the network and the other target devices on the voice group call must wait for the uplink to become free.” {November 20, 2009 Final Office Action: p. 7, ll. 1-6}

First, the Examiner has failed to disclose a motivation for modifying Sanders, III et al. as taught by 3GPP TS 43.068 and thus failed to establish a *prima facie* case of obviousness. Furthermore, even assuming, *arguendo*, that the publication teaches that the current talker has exclusive access to the network while other devices in the voice group call must wait for the uplink to become free, this fails to disclose or suggest that the uplink be held until the SM is sent completely to the network, as found in claim 8. If the uplink were not held, then it would become free thereby terminating the current talker’s access to the network and since the uplink was free it could be accessed by other voice group call devices. The publication fails to expressly disclose nor can it be inferred therefrom that the uplink is held until the SM is sent completely to the network.

Modification of Sanders, III et al. as taught by 3GPP TS 43.068 would result in a system wherein the voice group call (not the SM) is released only upon reception of an uplink release

message.

Method claim 16 contains similar limitations to those discussed above with respect to claim 8 and thus is patentable over the prior art of record for at least the same reasons.

**Independent Claim 9 & Dependent Claim 15**

Independent claim 9 states “wherein a Short Message Entity (SME) in the network requests a short message Service Center to send the SM to members of the VGC, the SC interrogates a Group Call Register in order to retrieve routing information of an Anchor - Mobile Switching Center (Anchor-MSC) for this VGC, the SC forwards the SM to the appointed Anchor-MSC for this VGC, the Anchor-MSC itself forwards the SM to all base station subsystems (BSS) partaking in the VGC and in addition to all Relay – Mobile Switching Centers (Relay-MSCs), the Relay-MSCs send the SM to all respective BSS for this VGC, which transmit it to the listeners.” (emphasis added)

Sanders, III et al. fails to disclose or suggest that “the SC interrogates the Group Call Register in order to retrieve routing information on an Anchor – Mobile Switching Center (Anchor – MSC) for this VCG.” (emphasis added) To the contrary, Sanders, III et al. discloses (Col. 7, ll. 10-24 ) that the call request and the short message from the originating communication device is received by MSC 118 and forwarded to SMS processor 120 which, in turn, forwards the call request and short message to the dispatch controller 103 so as to establish communication links between itself and the target devices 107-110 of the originating communication device’s talk group. In rejecting claim 9, the Examiner asserts that SMS processor 120 reads on the claimed “short message Service Center (SC)” while dispatch controller 103 reads on the claimed “Anchor – MSC.” In Sanders, III et al. every call request and short message, irrespective of the particular Voice Call Group, is sent from the SMS processor 120 to the dispatch controller 103. Accordingly, Sanders, III et al. fails to disclose or suggest that SMS processor 120 interrogates a Group Call Register in order to retrieve routing information on the dispatch controller 103, as called for in claim 9. Such routing information to the dispatch controller 103 would be unnecessary since every call request and short message is

routed from the SMS processor 120 to the dispatch controller 103, thus there is no need to obtain routing information to the dispatch controller for a particular Voice Group Call.

The Examiner acknowledges that this feature is not disclosed by Sanders, III et al. but submits that it is nevertheless obvious in view of 3GPP TS 43.068. Applicant respectfully disagrees. Sanders, III et al. expressly teaches away from any such modification. MPEP §2143.01(V) provides “If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” (citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). Sanders, III et al. expressly discloses “Therefore, a need exists for an apparatus and method for providing dispatch or group call service to an existing public telephone network that permit a full duplex group call to be commenced effortlessly by the user of a subscriber and that do not require modification of the existing telephone network.” (Col. 2, ll. 8-13) and “Generally, the present invention encompasses a method and apparatus for providing dispatch service to an existing telephone network.” (Col. 2, ll. 43-35) Thus, modification of Sanders, III et al. so that the SM are transmitted by the SC in lieu of the dispatch controller 103 would make the reference unsatisfactory for its intended purpose of using a dispatch system (including a dispatch controller) rather than modifying an existing telephone network.

Dependent apparatus claim 15 is a similar to its claim 9 method counterpart and thus patentable over the prior art of record for at least the same reasons.

For at least the foregoing reasons Applicants submit that claims 1-6, 8-11 and 13-16 are patentable over the prior art of record and passage of the application to issuance is therefore requested.

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
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